

OVERVIEW

Summary

This document is meant to be an ongoing resource that documents the details of major legislation proposed around transparency and data sharing for social media. It's a work in progress. If you're interested in contributing, feel free to reach out (I'm at brandon.silverman@gmail.com).

Also, the Center for Democracy and Technology [has a similar analysis written in April which you can read here and it's great.](#)

Existing legislative overview:

Below is a list of all the major legislation related to social media transparency that has either been passed, voluntarily agreed to or introduced at a significant level around the world.

- Passed:
 - [Digital Services Act](#) - Particularly relevant sections:
 - Article 15: Content moderation transparency
 - Article 26: Transparency of advertising to users
 - Article 27: Recommender system (algorithmic) transparency
 - Article 39: A repository of advertisements for up to a year
 - Article 40: Data sharing with vetted researchers
 - Article 40 (Section 12): Real-time access to public content
 - [California AB 587](#) - Relevant sections:
 - Section 22677: Semiannual reports on content moderation
 - Texas (coming soon)
 - Actively being challenged in the courts
 - Florida (coming soon)
 - Actively being challenged in the courts
- Voluntarily agreed to:
 - [Code of Practice on Disinformation](#) - A sweeping voluntary agreement among hundreds of civil society organizations, as well as platforms & the European Commission, on how to combat disinformation that includes a lot of transparency & data sharing provisions. For companies that signed onto the Code of Practice, compliance with the Code will serve as a measure of compliance under the DSA. Relevant sections:
 - Section 3: User facing transparency of political ads
 - Section 3: Repositories of political advertisements
 - Section 6: Empowering research community, including easy and real-time access to public data and not targeting researchers who are scraping as a part of good faith efforts for public interest research
 - Section 6: Empowering fact-checkers

- Written but not passed:
 - [Platform Accountability and Transparency Act](#) (Draft, US Senate) - Relevant sections:
 - Sections 3-9: Researcher access to privacy-sensitive data
 - Section 11: Safe harbor for scraping
 - Section 12:
 - (b): Real-time transparency around public content
 - (c): Transparency around advertising
 - (d): Transparency around algorithms & company metrics
 - (e): Transparency around content moderation
 - [Social Media DATA Act, H.R 3451 \(US House\)](#)
 - Coming soon
 - [Digital Services Oversight and Safety Act, H.R. 6796](#) (US House of Representatives) - Relevant sections:
 - Section 6: Content moderation transparency
 - Section 9: Algorithmic/recommender system transparency
 - Section 10: Researcher access to privacy-sensitive data
 - Section 10: Safe harbor for scraping
 - Section 10: Real-time transparency for high-engagement content
 - Section 10: Transparency for advertisements
 - [Algorithmic Justice Bill, H.R 3611, S.1896](#) (US House & US Senate)
 - Section 2: Maintaining record of algorithmic processes
 - Section (b)(3): Producing reports on content moderation
 - Section (c): Advertising libraries
 - [Honest Ads Act S.5054, H.R 5746](#) (US Senate)
 - Repository for political ads
 - [Nudge Act](#) (coming soon)
 - [Kids Online Safety Act](#) (coming soon)
 - [American Data and Privacy Act](#) (coming soon)
 - Online Harms Act in the UK (not included yet)

Overview of the basic transparency mechanisms:

Most of the legislation contains a lot of the same basic mechanisms for sharing data. The most popular provisions tend to be broken out into:

- Researcher access to private-sensitive data, including archives of removed content
- Easy access to public content, including safe harbor for scraping
- Content moderation reports
- Advertising transparency
- Algorithmic transparency

However, the various bills also include a few other elements that are not covered in detail in this document, including:

- Governance models, including establishment of new agencies & international intermediaries to support all the requirements, as well as funding for research, setting standards, bringing together the research community and more
- Risk assessments & independent auditing,
- Transparency for users, including easily accessible and understandable terms of service, appeals process for content takedowns, etc. and
- Additional transparency & data sharing measures specifically triggered during crisis moments.

Some external whitepapers and reviews of the legislation (work in progress):

- The Center for Democracy and Technology [has a similar analysis written in April](#).
- Overview in Science [comparing the different bills](#) (high-level)
- Lawfare overview of [proposed legislation in the US](#)
- [CDT recommendations](#)
 - Improve access to public data
- Knight Foundation Cybersecurity for Democracy, [Policy Recommendations on Transparency](#)
 - [Safe harbor](#), [more here](#)
 - [Reasonably public content](#)
 - [Algorithmic transparency](#)
- Knight First Amendment [notes in favor of PATA](#)
- Gartner [article](#) in support of PATA
- [PEN America in support of PATA](#)
- Center for Democracy and Technology, [“Report – Making Transparency Meaningful: A Framework for Policymakers”](#)
- Aspen Institute [Commision on Information Disorder](#)
 - Endorses safe harbor
 - Endorses researcher access to private data
 - Endorses high reach content disclosure
- Center for Democracy and Technology, [“Future of Speech”](#)
- Brookings Institute on [the role of transparency in social media](#)
- Brookings, [“Can Congress Mandate Meaningful Transparency?”](#)
- [Senate Hearing on Social Media Transparency](#)
 - [Jim Harper Testimony](#) and a [follow-up blog on AEI website](#)
 - [Daphne Keller Testimony](#)
 - [Haidt Testimony](#)
- *Need more commentary and analysis of DSA & Code transparency provisions*

APPENDIX OF TECHNICAL LANGUAGE

This section includes all the existing technical language for some of the main mechanisms throughout all the major legislation either passed, agreed to or introduced, including:

1. Mandating easy access to public content
2. Algorithmic transparency
3. Advertising transparency
4. Content moderation transparency
5. Scraping
6. Researcher access

1. Mandating easy access to public content

DSA

“Providers of very large online platforms or of very large online search engines shall give access without undue delay to data, including, where technically possible, to real-time data, provided that the data is publicly accessible in their online interface by researchers, including those affiliated to not for profit bodies, organisations and associations, who comply with the conditions set out in paragraph 8, points (b), (c), (d) and (e), and who use the data solely for performing research that contributes to the detection, identification and understanding of systemic risks in the Union pursuant to Article 34(1).”

Code of Practice on Disinformation

“Commitment 26: Relevant Signatories commit to provide access, wherever safe and practicable, to continuous, real-time or near real-time, searchable stable access to non-personal data and anonymised, aggregated, or manifestly-made public data for research purposes on Disinformation through automated means such as APIs or other open and accessible technical solutions allowing the analysis of said data.

In order to satisfy Commitment 26:

Measure 26.1. Relevant Signatories will provide public access to non-personal data and anonymised, aggregated or manifestly-made public data pertinent to undertaking research on Disinformation on their services, such as engagement and impressions (views) of content hosted by their services, with reasonable safeguards to address risks of abuse (e.g. API policies prohibiting malicious or commercial uses).

QRE 26.1.1: Relevant Signatories will describe the tools and processes in place to provide public access to non-personal data and anonymised, aggregated and manifestly-made public data pertinent to undertaking research on Disinformation, as well as the safeguards in place to address risks of abuse.

QRE 26.1.2: Relevant Signatories will publish information related to data points available via Measure 25.1, as well as details regarding the technical protocols to be used to access these data points, in the relevant help centre. This information should also be reachable from the Transparency Centre. At minimum, this information will include definitions of the data points available, technical and methodological information about how they were created, and information about the representativeness of the data.

SLI 26.1.1: Relevant Signatories will provide quantitative information on the uptake of the tools and processes described in Measure 26.1, such as number of users.

Measure 26.2. Relevant Signatories will provide real-time or near real-time, machine-readable access to nonpersonal data and anonymised, aggregated or manifestly-made public data on their service for research purposes, such as accounts belonging to public figures such as elected official, news outlets and government accounts subject to an application process which is not overly cumbersome. 26 The exact scope of “manifestly-made public data” will necessarily vary from service to service. Relevant Signatories will explain how this term applies to their service in their reporting. 28

QRE 26.2.1: Relevant Signatories will describe the tools and processes in place to provide realtime or near real-time access to non-personal data and anonymised, aggregated and manifestlymade public data for research purposes as described in Measure 26.2.

QRE 26.2.2: Relevant Signatories will describe the scope of manifestly-made public data as applicable to their services

QRE 26.2.3: Relevant Signatories will describe the application process in place to in order to gain the access to non-personal data and anonymised, aggregated and manifestly-made public data described in Measure 26.2.

SLI 26.2.1: Relevant Signatories will provide meaningful metrics on the uptake, swiftness, and acceptance level of the tools and processes in Measure 26.2, such as: - Number of monthly users (or users over a sample representative timeframe) - Number of applications received, rejected, and accepted (over a reporting period or a sample representative timeframe) - Average response time (over a reporting period or a sample representative timeframe).

Measure 26.3. Relevant Signatories will implement procedures for reporting the malfunctioning of access systems and for restoring access and repairing faulty functionalities in a reasonable time.

QRE 26.3.1: Relevant Signatories will describe the reporting procedures in place to comply with Measure 26.3 and provide information about their malfunction response procedure, as well as about malfunctions that would have prevented the use of the systems described above during the reporting period and how long it took to remediate them.”

PATA

“(1) In general.—Not later than 1 year after the date of enactment of this Act, the Commission shall, in accordance with section 553 of title 5, United States Code, and subject to subsection (f), issue regulations to require platforms to disclose on an ongoing basis information regarding content on the platform that—

(A) has been sufficiently disseminated according to metrics that the Commission deems appropriate (which may include engagement, views, reach, impressions, or other metrics);

(B) was originated or spread by major public accounts; or

(C) meets other criteria that the Commission may designate.

(2) Disclosure of public content samplings.—The regulations issued under paragraph (1) shall further require platforms to disclose on an ongoing basis statistically representative samplings of public content, including, at a minimum, a sampling that is weighted by the number of impressions the content receives.

(3) Required information.—The information required to be disclosed about content described in paragraphs (1) and (2) shall include, as appropriate—

(A) the underlying content itself, including any public uniform resource locator link to the content;

(B) metrics about the extent of dissemination of or engagement with the content;

(C) metrics about the audience reached with the content;

(D) information about whether the content has been determined to violate the platform’s policies;

(E) information about the extent to which the content was recommended by the platform or otherwise amplified by platform algorithms;

(F) information about the user accounts responsible for the content (including whether such accounts posted content deemed violating in the past) ; and

(G) other information the Commission deems appropriate.

(4) Treatment of content that has been removed.—The regulations described in paragraph (1) shall provide guidance regarding disclosure of content that is removed by the user or platform subsequent to its dissemination.

(5) Frequency.—To the extent practicable, the Commission shall require this information to be updated so as to provide a real-time understanding of the content described in paragraphs (1) and (2).”

Trahan Proposal

“HIGH-REACH PUBLIC CONTENT STREAM.—

(1) IN GENERAL.—Not later than 18 months 7 after the date of the enactment of this Act, the 8 Commission shall issue regulations under section 9 553 of title 5, United States Code, that require a provider of a large covered platform to maintain, and grant certified researchers and the Commission access to, a high-reach public content stream that contains in a searchable, machine-readable format the following information (which may be updated by the Commission as the Commission determines to be necessary):

- A) The pieces of high-reach and high-engagement public content, such as user-generated posts, texts, hyperlinks, images, and videos, made available on the large covered platform.
- (B) The frequency with which such pieces of content are shared over a period of time within a recognized place.
- (C) Engagement (such as sharing and likes) with such pieces of content, including the demographic breakdown of users that interact with the content (to the extent such breakdown is known or inferred).
- (D) Exposure (such as viewership or impressions) to such pieces of content, including the demographic breakdown of users exposed to the content (to the extent such breakdown is known or inferred).
- (E) Public high-profile accounts involved in the spread of such pieces of content.
- (F) Any other information relating to such pieces of content that the Commission considers appropriate.

(2) CONSIDERATIONS.—In issuing regulations under paragraph (1), the Commission shall consider the following:

- (A) What constitutes high-reach and high-engagement public content for purposes of such regulations.
- (B) The time by which a piece of content is required to become available, and the period of time for which the piece of content is required to remain available, in the high-reach public content stream, with the goal of providing a near real-time understanding of high reach and high-engagement public content on the platform.
- (C) What constitutes a public high-profile account, considering not only that the profile is set to public but that the number of followers is greater than 25,000 users.
- (D) Any other matters the Commission 10 considers appropriate.

(3) NO ADDITIONAL INFORMATION COLLECTION REQUIRED.—The regulations issued under paragraph (1) shall specify that a provider of a large covered platform is not required to collect any information about users for the high-reach public content stream that the provider does not collect in the ordinary course of business.

(4) PUBLIC AVAILABILITY.—The regulations issued under paragraph (1) may require a provider of a large covered platform to make available to the public a version of the high-reach public content stream maintained under such regulations. Such regulations may specify that such public version is not required to contain certain information required to be included in the version to which the Commission and certified researchers are granted access because of national security or privacy concerns.”

2. Algorithmic transparency

DSA

“1. Providers of online platforms that use recommender systems shall set out in their terms and conditions, in plain and intelligible language, the main parameters used in their recommender systems, as well as any options for the recipients of the service to modify or influence those main parameters.

2. The main parameters referred to in paragraph 1 shall explain why certain information is suggested to the recipient of the service. They shall include, at least:

- (a) the criteria which are most significant in determining the information suggested to the recipient of the service;
- (b) the reasons for the relative importance of those parameters.”

PATA

“(1) In general.—Not later than 1 year after enactment of this Act, the Commission shall, in accordance with section 553 of title 5, United States Code, and subject to subsection (f), issue regulations to require platforms to report on their use of algorithms and metrics.

(2) Required information.—The reporting required under paragraph (1) shall be at least semiannual and include, as appropriate—

- (A) a description of all product features that made use of algorithms during the reporting period;
- (B) a summary of signals and features used as inputs to the described algorithms, including an explanation of all user data incorporated into these inputs, ranked or based on the significance of their impact on the algorithms’ outputs;
- (C) a summary of data-driven models (including those based on machine learning or other artificial intelligence techniques) utilized in the described algorithms, including the optimization objective of such models (such as predictions of user behavior or

engagement), ranked based on the significance of their impact on the algorithms' outputs;

(D) a summary of metrics used by the platform to score or rank content, ranked based on the significance of their impact on the algorithms' outputs;

(E) a summary of metrics calculated by the platform to assess product changes or new features, with an assessment of their relative importance in company decision-making;

(F) a description of significant datasets in the platform's possession relating to content on or users of the platform, enforcement of content policy, or advertising, as necessary or appropriate to inform and facilitate researcher data access requests;

(G) significant changes during the reporting period from the last report; and

(H) other information the Commission deems appropriate."

3. Advertising transparency

DSA

Section 26

"Providers of online platforms that present advertisements on their online interfaces shall ensure that, for each specific advertisement presented to each individual recipient, the recipients of the service are able to identify, in a clear, concise and unambiguous manner and in real time, the following:

(a) that the information is an advertisement, including through prominent markings, which might follow standards pursuant to Article 44;

(b) the natural or legal person on whose behalf the advertisement is presented;

(c) the natural or legal person who paid for the advertisement if that person is different from the natural or legal person referred to in point (b);

(d) meaningful information directly and easily accessible from the advertisement about the main parameters used to determine the recipient to whom the advertisement is presented and, where applicable, about how to change those parameters.

2. Providers of online platforms shall provide recipients of the service with a functionality to declare whether the content they provide is or contains commercial communications.

When the recipient of the service submits a declaration pursuant to this paragraph, the provider of online platforms shall ensure that other recipients of the service can identify in a clear and unambiguous manner and in real time, including through prominent markings, which might

follow standards pursuant to Article 44, that the content provided by the recipient of the service is or contains commercial communications, as described in that declaration.

3. Providers of online platforms shall not present advertisements to recipients of the service based on profiling as defined in Article 4, point (4), of Regulation (EU) 2016/679 using special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679.”

Section 39

“1. Providers of very large online platforms or of very large online search engines that present advertisements on their online interfaces shall compile and make publicly available in a specific section of their online interface, through a searchable and reliable tool that allows multicriteria queries and through application programming interfaces, a repository containing the information referred to in paragraph 2, for the entire period during which they present an advertisement and until one year after the advertisement was presented for the last time on their online interfaces. They shall ensure that the repository does not contain any personal data of the recipients of the service to whom the advertisement was or could have been presented, and shall make reasonable efforts to ensure that the information is accurate and complete.

2. The repository shall include at least all of the following information:

(a) the content of the advertisement, including the name of the product, service or brand and the subject matter of the advertisement;

(b) the natural or legal person on whose behalf the advertisement is presented;

(c) the natural or legal person who paid for the advertisement, if that person is different from the person referred to in point (b);

(d) the period during which the advertisement was presented;

(e) whether the advertisement was intended to be presented specifically to one or more particular groups of recipients of the service and if so, the main parameters used for that purpose including where applicable the main parameters used to exclude one or more of such particular groups;

(f) the commercial communications published on the very large online platforms and identified pursuant to Article 26(2);

(g) the total number of recipients of the service reached and, where applicable, aggregate numbers broken down by Member State for the group or groups of recipients that the advertisement specifically targeted.

3. As regards paragraph 2, points (a), (b) and (c), where a provider of very large online platform or of very large online search engine has removed or disabled access to a specific advertisement based on alleged illegality or incompatibility with its terms and conditions, the repository shall not include the information referred to in those points. In such case, the repository shall include, for the specific advertisement concerned, the information referred to in Article 17(3), points (a) to (e), or Article 9(2), point (a)(i), as applicable.

The Commission may, after consultation of the Board, the relevant vetted researchers referred to in Article 40 and the public, issue guidelines on the structure, organisation and functionalities of the repositories referred to in this Article.”

PATA

“(1) In general.—Not later than 1 year after the date of enactment of this Act, the Commission shall, in accordance with section 553 of title 5, United States Code, and subject to subsection (f), issue regulations to require platforms to disclose on an ongoing basis information regarding advertising on the platform.

(2) Information required.—The required information to be disclosed under paragraph (1) shall include, as appropriate—

(A) the legal name and unique identifier of the advertiser;

(B) a digital copy of the ad content as displayed or delivered to the user;

(C) metrics about the extent of dissemination of or engagement with the ad, including dates active and ad spending;

(D) any targeting criteria selected by the advertiser and any criteria used to deliver the ad;

(E) metrics about the audience reached with the ad, including non-identifying demographic or geographic data;

(F) information about whether the ad was determined to violate platform policies; and

(G) other information the Commission deems appropriate.

(3) Treatment of removed ads.—The regulations described in paragraph (1) shall provide guidance regarding disclosure of ads that are removed by the user or platform subsequent to its dissemination.

(4) Frequency.—To the extent practicable, the Commission shall require this information to be updated so as to provide a real-time understanding of the content described in paragraph (2).”

TRAHAN PROPOSAL

“ADVERTISEMENT LIBRARIES.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Commission shall issue regulations under section 553 of title 5, United States Code, that require the following:

(A) A provider of a large covered platform that sells advertising services to maintain and 11 grant certified researchers and the Commission access to an advertisement library that contains in a searchable, machine-readable format the following information (which may be updated by the Commission as the Commission determines to be necessary) related to any advertiser that purchases \$500 or more of advertising services from the provider in a calendar year:

- (i) The legal name and unique identification number for each advertiser.
- (ii) The full content contained within the advertisement, including machine-readable text and textual descriptions of any images.
- (iii) The method used, as selected either by the advertiser or by the provider, to target an advertisement to users of the large covered platform, including uploaded lists of users, pre-set categories of users, key words, and contextual information.
- (iv) The optimization objective chosen by the advertiser (such as awareness, reach, traffic, and engagement).
- (v) A description of the targeted audience for each advertisement, including information (that may have been collected from the profile of a user or based on an algorithm) on the demographics of the audience (including age, gender, geographic location, race, ethnicity, language, and political affiliation), interests of the audience, and any other description of the targeted audience determined to be reasonable by the Commission.
- (vi) A description of the delivery audience of the advertisement determined by a count of users who viewed the advertisement, including information (that may have been collected from the profile of a user or based on an algorithm) on the demographics of the audience (including age, gender, geographic location, race, ethnicity, language, and political affiliation), interests of the audience, and any other description of the delivery audience determined to be reasonable by the Commission.
- (vii) The number of times the advertisement was viewed by users.
- (viii) Advertisement conversion (including how often an advertisement was shared, liked, or clicked-through) and over what timeframe.
- (ix) The date and time that the advertisement was first displayed and last displayed.
- (x) The amount the advertiser budgeted for advertising services with respect to the advertisement on the large covered platform and the amount paid for such advertising services.

- (xi) The category of the advertisement as defined by the provider (such as politics, employment opportunity, housing opportunity, or apparel).
- (xii) Each language contained within the advertisement.
- (xiii) Any advertising services policy of the provider that is made available to advertisers.
- (xiv) Whether the advertisement was determined to violate any policy described in clause (xiii).
- (xv) Any other information the Commission considers necessary.

(B) The methodology used by the large covered platform to calculate the demographics of the targeted audience described in subparagraph (A)(v) to be the same as the methodology used to calculate the demographics of the delivery audience described in subparagraph (A)(vi).

(C) In the case of advertisements that are deleted by an advertiser or blocked by the advertising services policy of a provider of a large covered platform, the provider to treat such advertisements (with respect to whether or how such advertisements are made available in the advertisement library) as specified in such regulations.

(D) A provider of a large covered platform to make an advertisement available in the advertisement library within an amount of time specified in such regulations after the advertisement is posted on the platform.

(E) A provider of a large covered platform to make an advertisement available in the advertisement library for an amount of time specified in such regulations.

(F) A provider of a large covered platform to ensure that the advertisement library cannot be used to identify an individual targeted by an advertisement.

(2) NO ADDITIONAL INFORMATION COLLECTION REQUIRED.—The regulations issued under paragraph (1) shall specify that a provider of a large covered platform is not required to collect any information for the advertisement library that the provider does not collect in the ordinary course of business.

(3) PUBLIC AVAILABILITY.—The regulations issued under paragraph (1) shall require a provider of a large covered platform to make available to the public a version of the advertisement library maintained under such regulations. Such regulations may specify that such public version is not required to contain certain information required to be included in the version to which the Commission and certified researchers are granted access.”

“(c) Advertisement Library.—Beginning 180 days after the date of enactment of this Act, any online platform (except for a small business) that uses personal information in combination with an algorithmic process to sell or publish an advertisement shall take all reasonable steps to maintain a library of such advertisements. The library shall—

(1) be—

(A) publicly available to any individual without such individual being required to create a user account;

(B) conspicuous;

(C) accessible;

(D) not misleading; and

(E) available in each language in which the online platform provides services;

(2) present information in both human- and machine-readable formats;

(3) allow any individual to freely copy and use the information contained in the library;

(4) at a minimum, be searchable by date, location, topic, cost, advertiser, keyword, information disclosed pursuant to paragraph (6), or any other criteria that the Commission, by regulation, deems appropriate;

(5) contain copies of all advertisements sold or published by the online platform for 2 years following the sale or publishing of each advertisement; and

(6) for each advertisement entry, include—

(A) the content of the advertisement;

(B) all targeting criteria selected by the advertiser, including demographic information and non-precise geolocation information (except in the event that including a specific criterion would disclose personal information);

(C) any data the online platform provided to the advertiser regarding to whom it sold or published the advertisement, including demographic information and non-precise geolocation information (except in the event that including specific data would disclose personal information); and

(D) the name of the advertiser, the cost of the advertisement, the dates the advertisement was displayed on the online platform, and any other information that the Commission, by regulation, deems appropriate.”

Honest Ads Act

“(A) REQUIREMENTS FOR ONLINE PLATFORMS.—An online platform shall maintain, and make available for online public inspection in machine readable format, a complete record of any request to purchase on such online platform a qualified political advertisement which is made by a person whose aggregate requests to purchase qualified political advertisements on such online platform during the calendar year exceeds \$500.”

(2) CONTENTS OF RECORD.—A record maintained under paragraph (1)(A) shall contain—

- (A) a digital copy of the qualified political advertisement;
- (B) a description of the audience targeted by the advertisement, the number of views generated from the advertisement, and the date and time that the advertisement is first displayed and last displayed; and
- (C) information regarding—
 - (i) the average rate charged for the advertisement;
 - (ii) the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, the election to which the advertisement refers, or the national legislative issue to which the advertisement refers (as applicable);
 - (iii) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and
 - (iv) in the case of any request not described in clause (iii), the name of the person purchasing the advertisement, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.”

4. Content moderation transparency

PATA

“(1) In general.—Not later than 1 year after the date of enactment of this Act, the Commission shall, in accordance with section 553 of title 5, United States Code, and subject to subsection (f), issue regulations to require platforms to disclose on an ongoing basis information regarding content moderation and content violating platform policies.

(2) Required information.—The information required to be disclosed under paragraph (1) shall include, as appropriate—

- (A) statistics regarding the amount of content that the platform determined violated its policies, broken down by—

- (i) the violated policy;
 - (ii) the action taken in response to the violation;
 - (iii) the methods the platform used to identify the violating content (such as artificial intelligence, user report, human moderator review, or other means);
 - (iv) the extent to which the content was recommended or otherwise amplified by platform algorithms;
 - (v) the extent to which the user chose to follow the account that originated or spread the violating content, and if so, whether that account had been recommended to the user by the platform; and
 - (vi) geographic and demographic factors as the Commission deems appropriate;
- (B) statistics regarding the number of times violating content was viewed by users and the number of users who viewed it;
- (C) estimates by the platform about the prevalence of violating content (including as measured by the number of impressions of violating content), broken down by the factors described in subparagraph (A) as the Commission deems appropriate; and
- (D) other information the Commission deems appropriate.

(3) Availability of violating content.—Except to the extent provided by law, the regulations issued under paragraph (1) shall further require platforms to make available to qualified researchers or the public (if appropriate) randomized and representative samples of violating content, including the information described in subparagraph (A) associated with such content.

(f) Privacy and Confidentiality.—The Commission shall ensure that any reporting or disclosures required pursuant to this section do not infringe upon reasonable expectations of personal privacy of users of platforms or of other persons, or require dissemination of confidential business information or trade secrets.”

CA 587

“**22677.** (a) On a semiannual basis in accordance with subdivision (b), a social media company shall submit to the Attorney General a terms of service report. The terms of service report shall include, for each social media platform owned or operated by the company, all of the following:

- (1) The current version of the terms of service of the social media platform.
- (2) If a social media company has filed its first report, a complete and detailed description of any changes to the terms of service since the previous report.
- (3) A statement of whether the current version of the terms of service defines each of the following categories of content, and, if so, the definitions of those categories, including any subcategories:

- (A) Hate speech or racism.
- (B) Extremism or radicalization.
- (C) Disinformation or misinformation.
- (D) Harassment.
- (E) Foreign political interference.

(4) A detailed description of content moderation practices used by the social media company for that platform, including, but not limited to, all of the following:

- (A) Any existing policies intended to address the categories of content described in paragraph (3).
- (B) How automated content moderation systems enforce terms of service of the social media platform and when these systems involve human review.
- (C) How the social media company responds to user reports of violations of the terms of service.
- (D) How the social media company would remove individual pieces of content, users, or groups that violate the terms of service, or take broader action against individual users or against groups of users that violate the terms of service.
- (E) The languages in which the social media platform does not make terms of service available, but does offer product features, including, but not limited to, menus and prompts.

(5) (A) Information on content that was flagged by the social media company as content belonging to any of the categories described in paragraph (3), including all of the following:

- (i) The total number of flagged items of content.
- (ii) The total number of actioned items of content.
- (iii) The total number of actioned items of content that resulted in action taken by the social media company against the user or group of users responsible for the content.
- (iv) The total number of actioned items of content that were removed, demonetized, or deprioritized by the social media company.
- (v) The number of times actioned items of content were viewed by users.
- (vi) The number of times actioned items of content were shared, and the number of users that viewed the content before it was actioned.

(vii) The number of times users appealed social media company actions taken on that platform and the number of reversals of social media company actions on appeal disaggregated by each type of action.

(B) All information required by subparagraph (A) shall be disaggregated into the following categories:

(i) The category of content, including any relevant categories described in paragraph (3).

(ii) The type of content, including, but not limited to, posts, comments, messages, profiles of users, or groups of users.

(iii) The type of media of the content, including, but not limited to, text, images, and videos.

(iv) How the content was flagged, including, but not limited to, flagged by company employees or contractors, flagged by artificial intelligence software, flagged by community moderators, flagged by civil society partners, and flagged by users.

(v) How the content was actioned, including, but not limited to, actioned by company employees or contractors, actioned by artificial intelligence software, actioned by community moderators, actioned by civil society partners, and actioned by users.”

5. Scraping

PATA

“(a) In General.—No civil claim will lie, nor will any criminal liability accrue, against any person for collecting covered information as part of a news-gathering or research project on a platform, so long as—

(1) the information is collected through a covered method of digital investigation;

(2) the purpose of the project is to inform the general public about matters of public concern, and the information in fact is not used except to inform the general public about a matter of public concern;

(3) with respect to information that is collected through a covered method of digital investigation, the person takes reasonable measures to protect the privacy of the platform’s users;

(4) with respect to the creation and use of a research account, the person takes reasonable measures to avoid misleading the platform’s users; and

(5) the project does not materially burden the technical operation of the platform.

(b) Regulations.—No later than 180 days after the date of the enactment of this Act, the Commission shall promulgate regulations under section 553 of title 5—

(1) defining “covered method of digital investigation,” which phrase, as defined, must encompass—

(A) the collection of data from a platform through automated means;

(B) the collection of data voluntarily donated by users, including through a browser extension or plug-in; and

(C) the creation or use of research accounts;

(2) defining “covered information,” which phrase, as defined, must encompass—

(A) publicly available information, except that such term should not exclude data merely because an individual must log into an account in order to see it;

(B) information about ads shown on the platform, including the ads themselves, the advertiser’s name and disclosure string, and information the platform provides to users about how an ad was targeted; and

(C) any other category of information the collection of which the Commission determines will not unduly burden user privacy;

(3) defining “reasonable measures to protect the privacy of the platform’s users” under subsection (a)(3), including by specifying—

(A) what measures must be taken to prevent the theft and accidental disclosure of any data collected;

(B) what measures must be taken to ensure that the data at issue is not used for any purpose other than to inform the general public about matters of public concern; and

(C) what measures must be taken to restrict the publication or other disclosure of any data that would readily identify a user without the user’s consent, except when such user is a public official or public figure;

(4) defining “reasonable measures to avoid misleading the platform’s users” under subsection (a)(4); and

(5) defining “materially burden the technical operation of a platform” under subsection (a)(5).

(c) Amendment of Regulations.—The Commission may, as necessary, in consultation with relevant stakeholders, amend regulations promulgated pursuant to subsection (b) to the extent such amendment will accomplish the purposes of this section.

(d) Reporting.—In December of each calendar year beginning with calendar year 2022, the Commission shall require each operator of any platform to submit an annual report to the Commission that addresses whether the measures prescribed under subsections (b)(3) and (b)(4) of this section are adequately protecting the platform’s users.

(e) Definition of Research Account.—For purposes of this section, the term “research account” means an account on a platform that is created and used solely for the purposes of a news-gathering or research project that meets the requirements of subsection (a) and for no longer than is necessary to complete such project.”

TRAHAN BILL

“SAFE HARBOR FOR RESEARCHER ACCOUNTS AND DATA DONATIONS.—

(A) IMMUNITY FROM LIABILITY.—A certified researcher shall not be liable under any Federal, State, or local law, or for a violation of the terms and conditions of a covered platform, for any of the following:

(i) The creation and use of an account or accounts on a covered platform that are created for and used solely for a research project carried out for the purposes described in subsection (b)(2), if—

(I) the certified researcher takes reasonable measures to avoid misleading users of the covered platform in the creation and use of the account or accounts; and

(II) the creation and use of the account or accounts does not materially burden the technical operation of the covered platform.

(ii) The collection of information provided for research purposes by a user of a covered platform, including through a browser extension or plug-in, if the certified researcher obtains informed consent for such collection in accordance with section 46.116 of title 45, Code of Federal Regulations (or any successor regulation).

(B) PROHIBITION ON SERVICE DISCRIMINATION.—A provider of a covered platform may not condition, degrade, or otherwise discriminate in the provision of a service or product to 11 a certified researcher because the certified researcher takes an action described in clause (i) or (ii) of subparagraph (A).”

Code of Practice

Coming soon

6. Researcher access

DSA

“4. Upon a reasoned request from the Digital Services Coordinator of establishment, providers of very large online platforms or of very large online search engines shall, within a reasonable period, as specified in the request, provide access to data to vetted researchers who meet the requirements in paragraph 8 of this Article, for the sole purpose of conducting research that contributes to the detection, identification and understanding of systemic risks in the Union, as set out pursuant to Article 34(1), and to the assessment of the adequacy, efficiency and impacts of the risk mitigation measures pursuant to Article 35.

5. Within 15 days following receipt of a request as referred to in paragraph 4, providers of very large online platforms or of very large online search engines may request the Digital Services

Coordinator of establishment, to amend the request, where they consider that they are unable to give access to the data requested because one of following two reasons:

- (a) They do not have access to the data;
- (b) giving access to the data will lead to significant vulnerabilities in the security of their service or the protection of confidential information, in particular trade secrets;

6. Requests for amendment pursuant to paragraph 5 shall contain proposals for one or more alternative means through which access may be provided to the requested data or other data which are appropriate and sufficient for the purpose of the request.

The Digital Services Coordinator of establishment shall decide on the request for amendment within 15 days and communicate to the provider of the very large online platform or of the very large online search engine its decision and, where relevant, the amended request and the new period to comply with the request.

7. Providers of very large online platforms or of very large online search engines shall facilitate and provide access to data pursuant to paragraphs 1 and 4 through appropriate interfaces specified in the request, including online databases or application programming interfaces.

8. Upon a duly substantiated application from researchers, the Digital Services Coordinator of establishment shall grant such researchers the status of 'vetted researchers' for the specific research referred to in the application and issue a reasoned request for data access to a provider of very large online platform or of very large online search engine a pursuant to paragraph 4, where the researchers demonstrate that they meet all of the following conditions:

- (a) they are affiliated to a research organisation as defined in Article 2, point (1), of Directive (EU) 2019/790
- (b) they are independent from commercial interests;
- (c) their application discloses the funding of the research;
- (d) they are capable of fulfilling the specific data security and confidentiality requirements corresponding to each request and to protect personal data, and they describe in their request the appropriate technical and organisational measures that they have put in place to this end;
- (e) their application demonstrates that their access to the data and the time frames requested are necessary for, and proportionate to, the purposes of their research, and that the expected results of that research will contribute to the purposes laid down in paragraph 4;
- (f) the planned research activities will be carried out for the purposes laid down in paragraph 4;
- (g) they have committed themselves to making their research results publicly available free of charge, within a reasonable period after the completion of the research, subject to the rights and interests of the recipients of the service concerned, in accordance with Regulation (EU) 2016/679.

Upon receipt of the application pursuant to this paragraph, the Digital Services Coordinator of establishment shall inform the Commission and the Board.

9. Researchers may also submit their application to the Digital Services Coordinator of the Member State of the research organisation to which they are affiliated. Upon receipt of the application pursuant to this paragraph the Digital Services Coordinator shall conduct an initial assessment as to whether the respective researchers meet all of the conditions set out in paragraph 8. The respective Digital Services Coordinator shall subsequently send the application, together with the supporting documents submitted by the respective researchers and the initial assessment, to the Digital Services Coordinator of establishment. The Digital Services Coordinator of establishment shall take a decision whether to award a researcher the status of 'vetted researcher' without undue delay.

While taking due account of the initial assessment provided, the final decision to award a researcher the status of 'vetted researcher' lies within the competence of Digital Services Coordinator of establishment, pursuant to paragraph 8.

10. The Digital Services Coordinator that awarded the status of vetted researcher and issued the reasoned request for data access to the providers of very large online platforms or of very large online search engines in favour of a vetted researcher shall issue a decision terminating the access if it determines, following an investigation either on its own initiative or on the basis of information received from third parties, that the vetted researcher no longer meets the conditions set out in paragraph 8, and shall inform the provider of the very large online platform or of the very large online search engine concerned of the decision. Before terminating the access, the Digital Services Coordinator shall allow the vetted researcher to react to the findings of its investigation and to its intention to terminate the access.

11. Digital Services Coordinators of establishment shall communicate to the Board the names and contact information of the natural persons or entities to which they have awarded the status of 'vetted researcher' in accordance with paragraph 8, as well as the purpose of the research in respect of which the application was made or, where they have terminated the access to the data in accordance with paragraph 10, communicate that information to the Board.

12. Providers of very large online platforms or of very large online search engines shall give access without undue delay to data, including, where technically possible, to real-time data, provided that the data is publicly accessible in their online interface by researchers, including those affiliated to not for profit bodies, organisations and associations, who comply with the conditions set out in paragraph 8, points (b), (c), (d) and (e), and who use the data solely for performing research that contributes to the detection, identification and understanding of systemic risks in the Union pursuant to Article 34(1).

13. The Commission shall, after consulting the Board, adopt delegated acts supplementing this Regulation by laying down the technical conditions under which providers of very large online platforms or of very large online search engines are to share data pursuant to paragraphs 1 and 4 and the purposes for which the data may be used. Those delegated acts shall lay down the specific conditions under which such sharing of data with researchers can take place in

compliance with Regulation (EU) 2016/679, as well as relevant objective indicators, procedures and, where necessary, independent advisory mechanisms in support of sharing of data, taking into account the rights and interests of the providers of very large online platforms or of very large online search engines and the recipients of the service concerned, including the protection of confidential information, in particular trade secrets, and maintaining the security of their service.”

Code of Practice

“Commitment 26. Relevant Signatories commit to provide access, wherever safe and practicable, to continuous, real-time or near real-time, searchable stable access to non-personal data and anonymised, aggregated, or manifestly-made public data for research purposes on Disinformation through automated means such as APIs or other open and accessible technical solutions allowing the analysis of said data.

In order to satisfy Commitment 26:

Measure 26.1. Relevant Signatories will provide public access to non-personal data and anonymised, aggregated or manifestly-made public data pertinent to undertaking research on Disinformation on their services, such as engagement and impressions (views) of content hosted by their services, with reasonable safeguards to address risks of abuse (e.g. API policies prohibiting malicious or commercial uses).

QRE 26.1.1: Relevant Signatories will describe the tools and processes in place to provide public access to non-personal data and anonymised, aggregated and manifestly-made public data pertinent to undertaking research on Disinformation, as well as the safeguards in place to address risks of abuse.

QRE 26.1.2: Relevant Signatories will publish information related to data points available via Measure 25.1, as well as details regarding the technical protocols to be used to access these data points, in the relevant help centre. This information should also be reachable from the Transparency Centre. At minimum, this information will include definitions of the data points available, technical and methodological information about how they were created, and information about the representativeness of the data.

SLI 26.1.1: Relevant Signatories will provide quantitative information on the uptake of the tools and processes described in Measure 26.1, such as number of users.

Measure 26.2. Relevant Signatories will provide real-time or near real-time, machine-readable access to non- personal data and anonymised, aggregated or manifestly-made public data on their service for research purposes, such as accounts belonging to public figures such as elected official, news outlets and government accounts subject to an application process which is not overly cumbersome.

QRE 26.2.1: Relevant Signatories will describe the tools and processes in place to provide real-time or near real-time access to non-personal data and anonymised, aggregated and manifestly-made public data for research purposes as described in Measure 26.2

QRE 26.2.2: Relevant Signatories will describe the scope of manifestly-made public data as applicable to their services

QRE 26.2.3: Relevant Signatories will describe the application process in place to in order to gain the access to non-personal data and anonymised, aggregated and manifestly-made public data described in Measure 26.2

SLI 26.2.1: Relevant Signatories will provide meaningful metrics on the uptake, swiftness, and acceptance level of the tools and processes in Measure 26.2, such as:

- Number of monthly users (or users over a sample representative timeframe)
- Number of applications received, rejected, and accepted (over a reporting period or a sample representative timeframe)
- Average response time (over a reporting period or a sample representative timeframe).

Measure 26.3. Relevant Signatories will implement procedures for reporting the malfunctioning of access systems and for restoring access and repairing faulty functionalities in a reasonable time.

QRE 26.3.1: Relevant Signatories will describe the reporting procedures in place to comply with Measure 26.3 and provide information about their malfunction response procedure, as well as about malfunctions that would have prevented the use of the systems described above during the reporting period and how long it took to remediate them.

Commitment 27. Relevant Signatories commit to provide vetted researchers with access to data necessary to undertake research on Disinformation by developing, funding, and cooperating with an independent, third-party body that can vet researchers and research proposals²⁷.

In order to satisfy Commitment 27:

Measure 27.1. Relevant Signatories commit to work with other relevant organisations (European Commission, Civil Society, DPAs) to develop within a reasonable timeline the independent third-party body referred to in Commitment 27, taking into account, where appropriate, ongoing efforts such as the EDMO proposal for a Code of Conduct on Access to Platform Data.

QRE 27.1.1: Relevant Signatories will describe their engagement with the process outlined in Measure 27.1 with a detailed timeline of the process, the practical outcome

and any impacts of this process when it comes to their partnerships, programs, or other forms of engagement with researchers.

Measure 27.2. Relevant Signatories commit to co-fund from 2022 onwards the development of the independent third-party body referred to in Commitment 27.

Measure 27.3. Relevant Signatories commit to cooperate with the independent third-party body referred to in Commitment 27 once it is set up, in accordance with applicable laws, to enable sharing of personal data necessary to undertake research on Disinformation with vetted researchers in accordance with protocols to be defined by the independent third-party body.

QRE 27.2.1: Relevant Signatories will disclose their funding for the development of the independent third-party body referred to in Commitment 27.

QRE 27.3.1: Relevant Signatories will describe how they cooperate with the independent third-party body to enable the sharing of data for purposes of research as outlined in Measure 27.3, once the independent third-party body is set up.

SLI 27.3.1: Relevant Signatories will disclose how many of the research projects vetted by the independent third-party body they have initiated cooperation with or have otherwise provided access to the data they requested.

Measure 27.4. Relevant Signatories commit to engage in pilot programs towards sharing data with vetted researchers for the purpose of investigating Disinformation, without waiting for the independent third-party body to be fully set up. Such pilot programmes will operate in accordance with all applicable laws regarding the sharing/use of data. Pilots could explore facilitating research on content that was removed from the services of Signatories and the data retention period for this content

Commitment 28. COOPERATION WITH RESEARCHERS Relevant Signatories commit to support good faith research into Disinformation that involves their services.

In order to satisfy Commitment 28:

Measure 28.1. Relevant Signatories will ensure they have the appropriate human resources in place in order to facilitate research, and should set-up and maintain an open dialogue with researchers to keep track of the types of data that are likely to be in demand for research and to help researchers find relevant contact points in their organisations.

Measure 28.2. Relevant Signatories will be transparent on the data types they currently make available to researchers across Europe.

Measure 28.3. Relevant Signatories will not prohibit or discourage genuinely and demonstratively public interest good faith research into Disinformation on their platforms, and

will not take adversarial action against researcher users or accounts that undertake or participate in good-faith research into Disinformation.

Measure 28.4. As part of the cooperation framework between the Signatories and the European research community, relevant Signatories will, with the assistance of the EDMO, make funds available for research on Disinformation, for researchers to independently manage and to define scientific priorities and transparent allocation procedures based on scientific merits.

QRE 27.4.1: Relevant Signatories will describe the pilot programs they are engaged in to share data with vetted researchers for the purpose of investigating Disinformation. This will include information about the nature of the programs, number of research teams engaged, and where possible, about research topics or findings.

QRE 28.1.1: Relevant Signatories will describe the resources and processes they deploy to facilitate research and engage with the research community, including e.g. dedicated teams, tools, help centres, programs, or events.

QRE 28.2.1: Relevant Signatories will describe what data types European researchers can currently access via their APIs or via dedicated teams, tools, help centres, programs, or events.

QRE 28.3.1: Relevant Signatories will collaborate with EDMO to run an annual consultation of European researchers to assess whether they have experienced adversarial actions or are otherwise prohibited or discouraged to run such research.

QRE 28.4.1: Relevant Signatories will disclose the resources made available for the purposes of Measure 28.4 and procedures put in place to ensure the resources are independently managed.

TRANSPARENCY AND DATA SHARING FROM RESEARCH ORGANISATIONS

Commitment 29. Relevant Signatories commit to conduct research based on transparent methodology and ethical standards, as well as to share datasets, research findings and methodologies with relevant audiences.²⁸

In order to satisfy Commitment 29:

Measure 29.1. Relevant Signatories will use transparent methodologies and ethical standards to conduct research activities that track and analyse influence operations, and the spread of Disinformation. They will share datasets, research findings and methodologies with members of the Task-force including EDMO, ERGA, and other Signatories and ultimately with the broader public.

QRE 29.1.1: Relevant Signatories will provide reports on their research, including topics, methodology, ethical standards, types of data accessed, data governance, and outcomes.

QRE 29.1.2: Relevant Signatories will update their research in the Transparency Centre to allow for greater awareness and availability of their work.

QRE 29.1.3: Relevant Signatories will provide detailed information on methodology development to all stakeholders informed about research results. They will also regularly inform all members of the Task-force, including ERGA, EDMO and other Signatories about research activities they conduct, and, wherever possible, the related methodologies used. They will finally share, wherever possible, such research outcomes and related methodologies with the broader public.

SLI 29.1.1: Relevant Signatories will report on the reach of stakeholders or citizens informed about the outcome of their research projects.

Measure 29.2. Relevant Signatories will conduct research activities that aim at ascertaining the relative effectiveness of various resilience-fostering measures implemented in the Code and elsewhere (e.g. labels, warnings, ex-post notifications), with a view to informing future regulatory and operational interventions.

QRE 29.2.1: Relevant Signatories will provide reports on their research, including topics, methodology, ethical standards, types of data accessed, data governance and outcomes

QRE 29.2.2: Relevant Signatories will update their research in the Transparency Centre to allow for greater awareness and availability of their work.

QRE 29.2.3: Relevant Signatories will provide detailed information on methodology development to all stakeholders informed about research results. They will also regularly inform all members of the Task-force, including ERGA, EDMO and other Signatories about research activities they conduct, and, wherever possible, the related methodologies used. They will finally share, wherever possible, such research outcomes and related methodologies with the broader public.

SLI 29.2.1: Relevant Signatories will report on the reach of stakeholders or citizens informed about the outcome of their research projects .

Measure 29.3. Relevant Signatories will develop implementation models for effective repositories of advertising that aim at enhancing transparency with respect to advertising that contains Disinformation.

QRE 29.3.1: Relevant Signatories will update their research in the Transparency Centre to allow for greater awareness and availability regarding implementation models for effective repositories of advertising that aim at enhancing transparency of their work.

SLI 29.3.1: Relevant Signatories will report on the reach of stakeholders or citizens informed about the outcome of their research projects, research activities, methodologies and results.”

Trahan Bill

“SEC. 10. INDEPENDENT RESEARCH FACILITATION.

(a) OFFICE OF INDEPENDENT RESEARCH FACILITATION.—In establishing the Bureau under section (a), the Commission shall establish within the Bureau an office to be known as the “Office of Independent Research Facilitation”, which shall carry out such duties of the Commission under this section, and such other duties relating to facilitation of independent research on covered platforms, as the Commission considers appropriate.

(b) RESEARCHER CERTIFICATION PROCESS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Commission shall issue regulations under section 553 of title 5, United States Code, to establish a process by which—

- (A) an organization may, upon application to the Commission, be qualified as a host organization; and
- (B) an individual who is affiliated with a host organization may, upon application to the Commission, be certified in order to obtain access to information under this section for the purposes described in paragraph (2).

(2) PURPOSES OF ACCESS TO INFORMATION.— The purposes described in this paragraph are to gain understanding and measure the impacts of the content moderation, product design decisions, and algorithms of covered platforms on society, politics, the spread of hate, harassment, and extremism, security, privacy, and physical and mental health.

(3) REQUIREMENTS AND COMMITMENTS TO BE QUALIFIED AS HOST ORGANIZATION.—

(A) IN GENERAL.—In order to be qualified as a host organization under paragraph (A), an organization shall—

- (i) meet the requirements described in subparagraph (B); and
- (ii) make the commitments described in subparagraph (C).

(B) REQUIREMENTS.—The requirements described in this subparagraph for an organization are the following:

- (i) The organization— (I) is described in section 15 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code; or (II) is an institution of higher education (as defined in section 21 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))).
- (ii) The mission of the organization includes developing a deeper understanding of the impacts of covered platforms described in paragraph (2).

(iii) The organization has the capacity to—

(I) comply with the rules issued under subsection relating to information security; and (II) analyze information to which access is provided under this section 10 using data science and best practices for investigative and qualitative research.

(iv) Any additional requirements established by the Commission in the regulations issued under paragraph (1).

(C) COMMITMENTS.—The commitments described in this subparagraph for an organization are the following:

(i) To provide training to certified researchers affiliated with the organization to ensure that the researchers abide by the commitments described in paragraph (4)(C).

(ii) With respect to a project or study being carried out by a certified researcher affiliated with the organization using information to which access is obtained under this section, to conduct a review of the project or study to ensure that—

(I) the project or study is consistent with the purposes of access described in paragraph (2); and (II) the researcher has sought the approval of an institutional review board for the project or study, if applicable.

(iii) Any additional commitments established by the Commission in the regulations issued under paragraph (1).

(4) REQUIREMENTS AND COMMITMENTS TO BE 16 CERTIFIED AS A CERTIFIED RESEARCHER.—

(A) IN GENERAL.—In order to be certified as a certified researcher under paragraph (1)(B), an individual shall—

(i) meet the requirements described in subparagraph (B); and

(ii) make the commitments described in subparagraph (C).

(B) REQUIREMENTS.—The requirements described in this subparagraph for an individual are the following:

(i) The individual is affiliated with an organization that is qualified as a host organization under this subsection.

(ii) The individual is not under review 8 by the host organization for research misconduct.

(iii) Any additional requirements established by the Commission in the regulations issued under paragraph (1).

(C) COMMITMENTS.—The commitments described in this subparagraph for an individual are the following:

(i) To have the capacity to comply with, and to comply with, any information security or confidentiality requirements the Commission considers appropriate with respect to information accessed under this section.

- (ii) Not to reidentify, or to attempt to reidentify, the individual to whom information accessed under this section relates.
- (iii) Not to publish personal information derived from information accessed under this section.
- (iv) To comply with applicable Federal, State, and local information sharing and privacy laws and regulations.
- (v) To complete Responsible Conduct of Research training provided by the Office of Research Integrity of the Department of Health and Human Services.
- (vi) To disseminate the results of the research conducted using information accessed under this section to the public.
- (vii) To comply with limits on commercial use of information accessed under this section or research conducted using such information, as specified by the Commission in regulations issued under this section.
- (viii) To seek a certificate of confidentiality issued by the Secretary of Health and Human Services under section 301(d) 23 of the Public Health Service Act (42 U.S.C. 241(d)), if applicable.
- (ix) Any additional commitments established by the Commission in the regulations issued under paragraph (1).

(5) REQUALIFICATION AND RECERTIFICATION REQUIRED.—

(A) REQUALIFICATION.—In issuing regulations under paragraph (1), the Commission shall provide for the qualification of an organization as a host organization to expire at the end of a 3-year period and for the organization, upon application to the Commission, to be qualified as a host organization for a 3-year period in addition to the initial or any subsequent such period, if the organization—

- (i) continues to meet the requirements described in paragraph (3)(B);
- (ii) abided by the commitments described in paragraph (3)(C) that the organization made with respect to the previous such period; and
- (iii) makes the commitments described in paragraph (3)(C) for the next such period.

(B) RECERTIFICATION.—In issuing regulations under paragraph (1), the Commission shall provide for the certification of an individual as a certified researcher to expire at the end of a 1-year period and for the individual, upon application to the Commission, to be certified as a certified researcher for a 1-year period in addition to the initial or any subsequent such period, if the individual—

- (i) continues to meet the requirements described in paragraph (4)(B);

- (ii) abided by the commitments described in paragraph (4)(C) that the individual made with respect to the previous such period; and
- (iii) makes the commitments described in paragraph (4)(C) for the next such period.

(6) REVOCATION OF QUALIFICATION OR CERTIFICATION.—

(A) QUALIFICATION.—In issuing regulations under paragraph (1), the Commission shall provide for the revocation of the qualification of an organization as a host organization if the Commission determines that the organization—

- (i) no longer meets the requirements described in paragraph (3)(B); or
- (ii) is not abiding by the commitments described in paragraph (3)(C) that the organization made with respect to the applicable qualification period.

(B) CERTIFICATION.—In issuing regulations under paragraph (1), the Commission shall provide for the revocation of the certification of an individual as a certified researcher if the Commission determines that the individual—

- (i) no longer meets the requirements described in paragraph (4)(B); or
- (ii) is not abiding by the commitments described in paragraph (4)(C) that the individual made with respect to the applicable certification period.

(9) NONDISCRIMINATION.—No person on grounds of race, color, age, sex, national origin, political affiliation, or disability shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the researcher certification process established under this subsection.

(10) CONSULTATION.—In issuing regulations under paragraph (1), the Commission shall consult with the Director of the National Science Foundation, the Secretary of Health and Human Services, and the Federal Statistical Research Data Centers of the Bureau of the Census.

(11) GAO AUDIT AND REPORT.—

(A) AUDIT.—Not later than 3 years after the date on which the Commission issues the regulations required by paragraph (1), the Comptroller General of the United States shall complete an audit of the process established by such regulations.

(B) REPORT.—

- (i) IN GENERAL.—Not later than 90 days after the date on which the audit required by subparagraph (A) is completed, the Comptroller General— (I) shall submit to Congress a report on the

audit; and (II) shall make the report required by subclause (I) available to the Speaker of the House of Representatives, the majority and minority leaders of the House of Representatives, the majority and minority leaders of the Senate, the Chairman and Ranking Member of the committee and each subcommittee of jurisdiction in the House of Representatives and the Senate, and any other Member of Congress who requests the report.

(ii) CONTENTS.—The report required by clause (i)(I) shall include—

- (I) an assessment of the process, including whether the Office is effectively balancing information security with the need for rigorous independent research, done in a timely manner, for the purposes described in paragraph (2);
- (II) any signs of discrimination in the process of certifying researchers; and
- (III) recommendations for improvements to the process.

(c) SECURE RESEARCH ACCESS.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Commission shall issue regulations under section 553 of title 5, United States Code, to specify—

- (A) the types of information that should be made available to certify researchers by providers of covered platforms;
- (B) the manner in which such information is accessed; and
- (C) under what circumstances the provision of access to such information to certified researchers by providers of covered platforms is required or optional.

(2) TIERED ACCESS.—In issuing the regulations required by paragraph (1), the Commission shall create a system of tiered access in which information about users of covered platforms that the Commission considers more sensitive has more safeguards in place and is accessed by fewer certified researchers than information that the Commission considers less sensitive.

(3) TYPES OF INFORMATION TO BE CONSIDERED.—The types of information to be considered by the Commission in issuing the regulations required by paragraph (1) shall include the following:

- (A) Information related to how covered platforms conduct internal studies, including the metrics used to evaluate the platform's success and quality of content.
- (B) Information related to content moderation decisions (including choices related to the ranking, ordering, promotion, or recommendation of content and requests for removal of content), the setting of policies for

content moderation, and the demographics of individuals setting such policies.

(C) The demographics, cultural competency, and content category-specific expertise of individuals setting content moderation policies and making content moderation decisions.

(D) Requests to a provider of a covered platform from a third party to act on a user, account, or content (such as user-flagged content, content removal requests, account suspension requests, and network shutdowns).

(E) Information related to engagement (such as sharing and likes) with content (such as news articles and video clips), including the demographic breakdown of users that interact with content (to the extent such breakdown is known or inferred) and the source of engagement (such as organic search or recommendation).

(F) Information related to exposure (such as viewership or impressions) to content (such as news articles and video clips), including the demographic breakdown of users that interact with content (to the extent such breakdown is known or inferred) and the source of exposure (such as organic search or recommendation).

(G) Classification of information sources, such as opinion, sports entertainment, and politics.

(H) Archives of removed content.

(I) Archives of accounts that have been removed by a provider of a covered platform, including—

- (i) any special treatment of accounts that previously belonged to high-profile individuals;

- (ii) archives of fake or bot accounts that have been removed; and

- (iii) archives of coordinated influence operation accounts that have been removed.

(J) Advertisements and influencer marketing content, in addition to the information described in subsection (f).

(K) Materials used to train content moderators.

(L) Detailed information related to the algorithms of a covered platform, including feature importance, optimization objectives (such as predictions of user behavior or engagement), descriptions of datasets used in model development including its composition, collection process, and any preprocessing (including cleaning or labeling) done on the data.

(M) Any other information the Commission considers necessary.

(4) CONSIDERATIONS RELATING TO MANNER OF ACCESS.—In issuing the regulations required by paragraph (1), the Commission shall consider the 19 following:

- (A) Size and sampling techniques used to create the data sets containing the information described in paragraph (3) to which access is provided under this subsection.
- (B) Limits on time and amount of information stored, broken down by the type of information.
- (C) Under what circumstances privacy preserving techniques such as differential privacy and statistical noise should be used.
- (D) Information security standards, such as those included in the National Institute of Standards and Technology portfolio.
- (E) When aggregation of demographic information is required and the required level of aggregation.
- (F) When standardized variable names should be used across covered platforms and for what types of information.
- (G) Under what circumstances secure application computer interfaces are required and the specific level of security.
- (H) Designation of secure facilities and computers to analyze information through a Federally Funded Research and Development Center described in paragraph (7) or as otherwise determined by the Commission.
- (I) Under what circumstances to limit access to information to a subset of certified researchers based on the nature of the study or when to require preliminary results prior to 3 more restricted access.
- (J) The technical feasibility for a provider of a covered platform to provide access to information.

(5) CONSIDERATION OF WHEN COMMISSION REVIEW PRIOR TO PUBLICATION IS REQUIRED.—In issuing the regulations required by paragraph (1), the Commission shall consider under what circumstances the Commission will review a publication based on information accessed under this section prior to publication to determine whether the publication violates the privacy of a user of the covered platform or would reveal trade secrets of the provider of the covered platform.

(6) USER PRIVACY.—

- (A) PROTECTION OF REASONABLE EXPECTATIONS OF PERSONAL PRIVACY.—

(i) IN GENERAL.—In issuing the regulations required by paragraph (1), the Commission shall ensure that the provision of access to information under this section does not infringe upon reasonable expectations of personal privacy of users of covered platforms or of other individual, including by requiring a provider of a covered platform—

(I) to deidentify any information described in clause (ii) before providing certified researchers with access to such information; and

(II) in the case of location information to which certified researchers are provided access, to ensure that such access—

(aa) is provided at a level that is no more specific than a recognized place; and

(bb) does not include access to precise geospatial information.

(ii) INFORMATION DESCRIBED.—The information described in this clause is the 19 following:

(I) Information that is not (or was not before removal from the covered platform) public content.

(II) Personal health information.

(III) Biometric information.

(IV) Information relating to an 2 individual under 13 years of age.

(B) NOTICE TO PLATFORM USERS.—In issuing the regulations required by paragraph (1), the Commission shall require a provider of a covered platform, through the posting of notices or other appropriate means, to keep users informed of the types of information to which the provider is required or permitted to provide access to certified researchers under this section and the privacy protections applicable to such access.

(C) USER OPT-OUT.—In issuing the regulations required by paragraph (1), the Commission shall require a provider of a covered platform to make available to a user whose profile does not host public content an opportunity to opt out of having access to the information of such user provided to a certified researcher under this section.

(D) PROHIBITION AGAINST COMPELLED DISCLOSURE TO GOVERNMENTAL ENTITIES.—A certified researcher, or an organization that is qualified as a host organization under this section, may not be required (by a subpoena, court order, or otherwise) to divulge to a

governmental entity (as defined in section 2711 of 3 title 18, United States Code) any information obtained from a provider of a covered platform under this section.

(E) RELATIONSHIP TO OTHER LAW.—Section 2702(b) of title 18, United States Code, is amended—

- (i) in paragraph (8), by striking “; 10 or” and inserting a semicolon;
- (ii) in paragraph (9), by striking the period at the end and inserting “; or”;
- and
- (iii) by adding at the end the following: “(10) to a certified researcher under section 10 of the Digital Services Oversight and Safety Act of 2022 in accordance with such section and the regulations issued by the Federal Trade Commission under such section.”

(7) FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER.—

(A) IN GENERAL.—The Commission may sponsor a Federally Funded Research and Development Center as described in section 35.017 25 of title 48, Code of Federal Regulations (or any successor regulation), to facilitate information sharing between covered platforms and certified researchers.

(B) CONSORTIUM REQUIRED.—A Federally Funded Research and Development Center sponsored by the Commission under subparagraph (A) shall be comprised of at least 3 organizations that are qualified as host organizations under subsection (b).

(C) MISSION.—The mission of a Federally Funded Research and Development Center sponsored by the Commission under subparagraph (A) may include the following:

- (i) Enabling certified researchers to perform studies requiring information from multiple covered platforms.
- (ii) Serving as a means to provide certified researchers access to information as described in paragraph (4)(H).
- (iii) Upon request of the Director of the Bureau, supporting and assisting in the development of guidance under section 23 8.
- (iv) Collaborating with international research organizations with a similar mission.

(8) VARIATION BASED ON SIZE AND SCOPE.— In issuing the regulations required by paragraph (1), the Commission shall vary the specifications based on the size and scope of a covered platform, including by having different specifications for different services such as social media services, online

marketplaces, augmented reality and virtual reality services, and digital advertising placement services. In the case of a large covered platform, the regulations issued under paragraph (1) shall apply in addition to the regulations issued under subsections (f) and (g), and the Commission shall also vary the requirements of the regulations issued under such subsections based on the size and scope of a large covered platform.

(9) SAFE HARBOR FOR PROVIDERS.—If a provider of a covered platform provides a certified researcher with access to information in accordance with the regulations required by paragraph (1) (regardless of whether such access is optional or required), the Commission may not bring an enforcement action against the provider based solely on the act of disclosing such information to the certified researcher.”

Archives of removed content

Code of Practice

“Measure 27.4. Relevant Signatories commit to engage in pilot programs towards sharing data with vetted researchers for the purpose of investigating Disinformation, without waiting for the independent third-party body to be fully set up. Such pilot programmes will operate in accordance with all applicable laws regarding the sharing/use of data. Pilots could explore facilitating research on content that was removed from the services of Signatories and the data retention period for this content. QRE 27.4.1: Relevant Signatories will describe the pilot programs they are engaged in to share data with vetted researchers for the purpose of investigating Disinformation. This will include information about the nature of the programs, number of research teams engaged, and where possible, about research topics or findings.”

PATA

“(4) Treatment of content that has been removed.—The regulations described in paragraph (1) shall provide guidance regarding disclosure of content that is removed by the user or platform subsequent to its dissemination.”

Trahan Bill

Under researcher access

“(H) Archives of removed content.

(I) Archives of accounts that have been removed by a provider of a covered platform, including—

- (i) any special treatment of accounts that previously belonged to high-profile individuals;
- (ii) archives of fake or bot accounts that have been removed; and
- (iii) archives of coordinated influence operation accounts that have been removed. “